



TOWN OF HOPEDALE
ZONING BOARD OF APPEALS
TOWN HALL
78 HOPEDALE STREET
HOPEDALE, MA 01747

Christopher P. Hodgens, Chairman
Nicholas A. Alexander, Member
Sandra E. Biagetti, Member
Louis J. Costanza, Member
Scott M. Savage, Member
Mary T. Arcudi, Alternate

Accessory Apartment Checklist

1. Special Permit Required
Accessory apartments are not allowed in Hopedale unless the Zoning Board of Appeals issues a special permit following a public hearing. (Hopedale Zoning By-Laws § 6.3).
2. Burden of Proof
No applicant has "an absolute right to a special permit." MacGibbon v. Board of Appeals of Duxbury, 356 Mass. 635, 638-39 (1970). The applicant bears the burden proving a special permit should be granted. Fish v. Accidental Auto Body, Inc., 95 Mass. App. Ct. 355, 362 (2019).
3. Discretion of Zoning Board of Appeals
The decision to grant or deny "special permits is within the discretion" of the Zoning Board of Appeals. ACW Realty Management, Inc. v. Planning Board of Westfield, 40 Mass. App. Ct. 242, 246 (1996). Even if a "special permit could lawfully be granted by the board because the applicant's evidence satisfied the statutory and regulatory criteria, the board retains discretionary authority to deny the permit." Davis v. Zoning Board of Chatham, 52 Mass. App. Ct. 349, 356 (2001).
4. Owner Occupancy
"The owner(s) of the dwelling in which the accessory apartment is located shall occupy one of the dwelling units." (Hopedale Zoning By-Laws § 6.3(a)).
5. Relative of Owner or Caretaker
"Either the occupants of both units shall be related by blood, adoption, or marriage, or one of the units shall be occupied by an individual hired to provide medical assistance, custodial care, or child care to one or more individuals in the other unit." (Hopedale Zoning By-Laws § 6.3(b)).
6. Termination
"When the dwelling is sold, or when the need for such care ceases, the dwelling shall revert to single family use, and the accessory apartment may not be reoccupied unless a new special permit is obtained from the [Zoning] Board of Appeals." (Hopedale Zoning By-Laws § 6.3(b)).

7. Single-Family Appearance

"The design of the accessory apartment shall be such that the appearance of the building remains that of a one-family residence." (Hopedale Zoning By-Laws § 6.3(c)).

8. Limitations on Additions and Entrances

"Any new entrances or additions shall be located on the side or rear of the building and shall not increase the floor area of the dwelling by more than ten percent (10%). Additions shall not be permitted on any lot not conforming to the minimum lot size or yard setback requirements of the district where the building is located, nor shall any new nonconformance be created by any additions." (Hopedale Zoning By-Laws § 6.3(c)).

9. Limitations on Floor Area

"The accessory apartment shall be clearly secondary in nature to the principal dwelling, and it shall not exceed six hundred (600) square feet in area." (Hopedale Zoning By-Laws § 6.3(d)).

10. Limitations on Number of Apartments and Garages

"The one accessory apartment permitted per dwelling may be created in an attached or detached garage existing on the date of adoption of this by-law." (Hopedale Zoning By-Laws § 6.3(e)).

11. Certification of Septic System

"If the lot is not connected to public sewer, prior to obtaining a building permit, the Board of Health shall certify that the septic system is in compliance with Title 5 of the State Environmental Code and the Board of Health's regulations." (Hopedale Zoning By-Laws § 6.3(f)).

12. Limitation on Bedrooms

"There shall be no more than one (1) bedroom in an accessory apartment." (Hopedale Zoning By-Laws § 6.3(g)).

13. Harmony with Zoning By-Laws

The proposed use must be "in harmony with the general purpose and intent of the by-laws." (G.L. c. 40A, § 9).

14. Compliance with All Zoning By-Laws

All requirements of the Hopedale Zoning By-Laws must be met. (Hopedale Zoning By-Laws § 10.6(d)).

15. Record Proof

Any proof required for obtaining a special permit must be established by information submitted at a public hearing. (Hopedale Zoning By-Laws § 10.6(d)).

16. Balancing of Detriments and Benefits

"The use will not have detrimental effects which outweigh its benefits to the neighborhood, Town or zoning district in which it is located." (Hopedale Zoning By-Laws § 10.6(d)(1)).

17. Master Plan

"The use is consistent, insofar as practicable, with the Town's Master Plan officially adopted by the Planning Board." (Hopedale Zoning By-Laws § 10.6(d)(2)).

18. Public Health and Safety

"The use will not materially endanger or be hazardous to the public health and safety." (Hopedale Zoning By-Laws § 10.6(d)(3)).

19. Parking

"Sufficient off-street parking exists or will be provided to serve the use." (Hopedale Zoning By-Laws § 10.6(d)(4)).

20. Adequacy of Water, Sewer, Septic, and Utilities

"The use can be adequately served by municipal water and sewer systems and other necessary utilities, or the [ZBA] is satisfied that the proposed alternatives will comply with all applicable regulations; proposed septic systems shall comply with Title 5 of the State Environmental Code or more stringent regulations adopted by the Board of Health." (Hopedale Zoning By-Laws § 10.6(d)(5)).

21. Surface Water Runoff

"The use will not result in a substantial increase of volume or rate of surface water runoff to neighboring properties and streets." (Hopedale Zoning By-Laws § 10.6(d)(6)).

22. Protection of Water Supply and Environment

"The use will not result in contamination of the ground water supply, a well, stream, pond, watercourse or wetland." (Hopedale Zoning By-Laws § 10.6(d)(7)).

23. Pedestrian Safety and Traffic

"The use will not create undue traffic congestion or unduly impair pedestrian safety." (Hopedale Zoning By-Laws § 10.6(d)(8)).

24. Conditions

If inclined to grant a special permit, the Zoning Board of Appeals may impose "conditions, safeguards and limitations on time or use." (G.L. c. 40A, § 9). These conditions may consider "protection of the neighborhood, the Town, and the natural environment" and may also include, but are not limited to, setbacks greater than the minimum required under the by-laws, screening and buffering from adjacent property, limitations on the size, method and time of operation, regulation of the locations of driveways or other traffic features,

off-street parking and loading, and bond posting to assure compliance. (Hopedale Zoning By-Laws § 10.6(e)).

25. Additional Conditions for Accessory Apartments

"The [Zoning] Board of Appeals may require more stringent or other appropriate conditions in order to protect the public health and safety and the single family character of the neighborhood. The Board may allow deviation from the above conditions where necessary to install features that facilitate use by disabled persons." (Hopedale Zoning By-Laws § 6.3(h)).

26. Additional Conditions Following Site Plan Review

In cases where site plan review is also required, the "Planning Board shall review and take action on the site plan and shall submit a report with recommendations to the [Zoning] Board of Appeals." The Zoning Board of Appeals "shall incorporate the Planning Board's recommendations and conditions in its special permit decision, or shall state in the decision the reasons why such recommendations or conditions were not followed." (Hopedale Zoning By-Laws § 18.4).